



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

FEB 02 2018

Anthony J. DeFazio

Madison, VA 22727

RE: MUR 7289

Dear Mr. DeFazio:

The Federal Election Commission reviewed the allegations in your complaint received on October 23, 2017. On January 26, 2018, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Take Back the Tenth, and Abbey M. Ruby, in her official capacity as treasurer, and close its file in this matter. Accordingly, the Commission closed its file in this matter on January 26, 2018. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: 
Assistant General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7289

Respondents: Take Back the Tenth, and
Abbey M. Ruby, as treasurer
(collectively the "Committee")

Complaint Receipt Date: October 23, 2017

Response Date: December 8, 2017

EPS Rating:

**Alleged Statutory
Regulatory Violations:**

**52 U.S.C. § 30120(a);
11 C.F.R. § 110.11**

The Complainant alleges that Take Back the Tenth, an independent-expenditure-only political committee, used a mobile billboard truck in Washington, D.C., on September 29, 2017, to display advertisements criticizing U.S. Representative Barbara Comstock that did not include required disclaimers. The Committee acknowledges that the ads shown on the sides of the truck on September 29 did not include the required disclaimers, but states that the omission was an oversight, other ads the Committee has shown on the truck's sides on other occasions have included proper disclaimers, and the Committee is committed to ensuring the error does not happen again.¹

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in

¹ The Committee states that it has reminded its volunteers about including disclaimers on public communications, and it included proper disclaimers on the two other occasions when it used the same mobile billboard truck. The Committee also states that the September 29, 2017, advertisements, one of which reads "Dump Comstock," cost \$600. Compl. Ex. B; Resp. at 1-3.

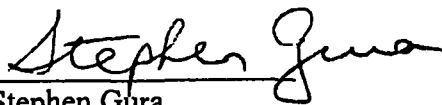
potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the fact that the error appears to be an isolated incident, the modest amount at issue, and the Committee's remedial efforts to re-train its volunteers, we recommend that the Commission dismiss the complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

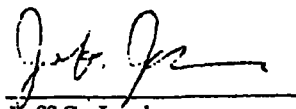
Lisa J. Stevenson
Acting General Counsel


Kathleen M. Guith
Associate General Counsel

1.11.18
Date

BY:


Stephen Gura
Deputy Associate General Counsel


Jeff S. Jordan
Assistant General Counsel


Donald E. Campbell
Attorney